IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2729 OF 1997

The Executive Engineer, Sangli)
Irrigation Division, Sangli-Vishrambag)
Sangli (Mah. Krishna Valley Delveopment)
Corporation).).. Petitioner

Versus

1) Pandurang Vishnu Sandage)
2) Suresh Shamrao Deshmukh)
3) Pandurang Balu Kurle)
4) Anna Balwant More)
5) Narayan Appa Patil)
6) Balekhan Ranjan Nadaf)
7) Ananda Mahadeo Mulik)
8) Chandrakant Bhimrao Gaikwad)
9) Raghunath Shankar Kadam)
10) Mahadeo Maruti Patil)
C/o.Sarva Shramik Sangh)
Sangli District, Sangli.)

11) Shri M.G.Choudhary)
Presiding Officer, Labour Court)
Sangli duly constituted under the)
provisions of the Industrial)
Disputes Act, 1947 having his place)
of seat at Labour Court, Sangli.)

12) The State of Maharashtra).. Respondents.

Mr.S.M.Dharap with Ms.Seema Sarnaik for
Respondent Nos.1 to 10.

Respondent No.11 formal party.

CORAM: SMT.NISHITA MHATRE, J.

JUDGMENT RESERVED ON : 27TH JULY 2004

JUDGMENT DELIVERED ON : 14TH SEPTEMBER 2004

JUDGMENT :

. This Petition has been preferred by the

Executive Engineer, Sangli Irrigation Division, challenging the Award of the Labour Court granting reinstatement with continuity of service and 25% back wages to the workmen. A further direction has been given that all the workmen were entitled to the benefits of the Kalelkar Award in respect of pension, gratuity and other legal benefits. The Labour Court directed the Petitioner to extend retiral benefits to one of the workman in Reference (IDA) No.40 of 1991 as he had retired during the pendency of the Reference.

2. The facts in the present case are similar to the facts narrated in Writ Petition No.2699 of 1993. The submission on behalf of the Petitioner is the same as made in that Petition. The main ground of challenge is that the Labour Court has found that there is a breach of Section 25F and Section 25N of the Industrial Disputes Act, 1947, although, according to the Petitioners, the present termination of services was on account of the transfer of the undertaking and, therefore, only compensation under Section 25FF was payable.

3. Mr.Dharap for Respondent Nos.1 to 10 submits that the Petition itself is not maintainable since it has not been filed by the proper party. The State Government was a party to the Reference while the

Petition is filed by the Executive Engineer, Sangli Irrigation Division through Maharashtra Krishna Valley Development Corporation. He submits that the Corporation had nothing whatsoever to do with the services of the Respondent workmen and, therefore, the Petition filed by the Corporation is not maintainable. He further submits that this Corporation came into existence only in 1996, whereas the References had been made in the years 1991 and 1992 and, therefore, the Petition as filed is not maintainable. A further submission is made by the learned Advocate that had the Government complied with the provisions of law applicable to the workmen, the workmen would have become casual regular temporry (CRT) employees under the Kalelkar Award and then could have been regularised in service under that Award. The learned Advocate also adopts the arguments made by him in Writ Petition No.2699 of 1993.

4. For the reasons stated in the judgment delivered today in Writ Petition No.2699 of 1993, the present Writ Petition is rejected. Rule discharged. No order as to costs.

5. Office to provide authenticated copy of this judgment.